

**FILED**  
**SCRANTON**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

FEB 3 2014

ELIJAH WASHINGTON,

Plaintiff,

v.

DAUPHIN COUNTY PRISON, et al.,

Defendants.

PER   
DEPUTY CLERK

CIVIL ACTION NO. 3:13-CV-2820

(Judge Kosik)

**ORDER**

AND NOW, THIS 3<sup>rd</sup> DAY OF FEBRUARY, 2014, IT APPEARING TO THE COURT THAT:

[1] Plaintiff, Elijah Washington, a prisoner currently confined at the State Correctional Institution in Houtzdale, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. § 1983 *pro se*, on November 19, 2013 (Doc. 1). Plaintiff's Complaint is based on incidents which occurred while housed at the Dauphin County Prison;

[2] The action was assigned to Magistrate Judge Martin C. Carlson for Report and Recommendation;

[3] On December 11, 2013, the Court adopted the Magistrate Judge's Report and Recommendation dated November 20, 2013 (Doc. 5), granting Plaintiff's motion to proceed *in forma pauperis*, dismissing Plaintiff's Complaint without prejudice, and allowing the Plaintiff to file an Amended Complaint within twenty days (Doc. 8);

[4] Plaintiff filed an Amended Complaint on December 23, 2013 (Doc. 9) naming the Dauphin County Prison, John Doe #1, John Doe #2, and Sergeant John Doe #3 as Defendants;

[5] On December 30, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 10), wherein he recommended that the Dauphin County Prison be dismissed as a defendant in this action;

[6] Specifically, after screening the Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A, the Magistrate Judge found that Plaintiff's Complaint failed to state a claim against the institutional defendant, the Dauphin County Prison;

(6) Plaintiff has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the Plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

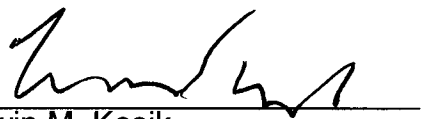
(8) We have considered the Magistrate Judge's Report and we concur with his recommendation. We agree that a county prison is not a proper defendant since it is not a "person" within the meaning of § 1983. See Regan v. Upper Darby Tp., No. 06-1686, 2009 WL 650384, at \*4 (E.D. Pa. Mar. 11, 2009) (citations omitted). Thus, we also agree that upon screening the Complaint, Plaintiff failed to state a claim against the Dauphin County Prison.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Martin C. Carlson dated December 30, 2013 (Doc. 10) is **ADOPTED**;

(2) The Dauphin County Prison is **DISMISSED** from this action; and

(3) The above captioned case is **REMANDED** to the Magistrate Judge for further proceedings consistent with this Order.

  
Edwin M. Kosik  
United States District Judge